

Appl. No. : 09/945,026
Filed : August 31, 2001

REMARKS

The Applicant thanks the Examiner for his careful and thoughtful examination of the present application. By way of summary, Claims 26-33, 35-52 and 54-79 were pending in this application. In the present amendment, the Applicant has canceled Claims 73-79 without prejudice or disclaimer and has amended Claims 26, 29, 30, 32, 35, 40, 41, 43, 46, 47, 56-58, 63-65 and 67. Accordingly, Claims 26-33, 35-52 and 54-72 remain pending for consideration.

The Applicant would also like to thank Examiner Hwang for the personal interview extended to the Applicant's counsel of record, William H. Shreve, on December 14, 2004. During the interview, the Applicant clarified patentably distinguishing features of the exercising apparatus recited by Claims 47 and 65. Accordingly, the Applicant has amended Claims 47 and 65 along the lines discussed in the interview. Therefore, the Applicant respectfully requests reconsideration of at least those pending amended claims.

Allowable Subject Matter - Claims 26-33, 35-46, 54, 55, 56 and 58-64

The Applicant acknowledges with appreciation the indication of allowable subject matter in Claims 26-33, 35-46, 54, 55, 56 and 58-64. Claims 26, 29, 30, 32, 35, 40, 41, 43, 46, 56, 58, 63 and 64 have been amended to improve the language of these claims. No new matter has been added by these amendments, and the Applicant respectfully submits that they are in allowable form or are dependent upon allowable base claims. The amendments were not made for reasons relating to the patentability of the claims.

Rejection Of Claims 47-50, 57, 67-69 and 72 Under 35 U.S.C. § 102

The Office Action rejected Claims 47-50, 57, 67-69 and 72 under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,018,725, issued to Cook (the Cook patent). The Applicant respectfully submits that the above claims now overcome this rejection because the Cook patent fails to identically teach every element of the above claims as amended.

In particular, as discussed during the Examiner interview, the Applicant respectfully submits that Claim 47, as currently amended, is patentably distinguished over the Cook patent because it recites that "the resistance assembly is configured at least selectively to provide positive resistance to the movement of the engagement portion along the at least one concentric

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exercise path and the at least one eccentric exercise path.” Therefore, Applicant respectfully requests allowance of Claims 47-50 and 57.

In addition, Claim 67 has been amended to recite that “for every position of the engagement assembly along the track, the operator engagement portion is disposed to the first side of the operator support.” The Applicant respectfully submits that the Cook patent does not teach such a configuration. Instead, as shown in the Cook patent, the pull bar 52 is configured to remain on the second side of the body support 18 through the majority of its arcuate path. Indeed, throughout much of this arcuate path, the pull bar 52 could not be used on the first side of the body support 18 if a user rested his or her back against the body support 18. Therefore, Applicant respectfully requests allowance of Claims 67-69 and 72.

Rejection Of Claims 51, 52, 65, 66, 70 and 71 Under 35 U.S.C. § 103

The Office action rejected Claims 51, 52, 65, 66, 70 and 71 under 35 U.S.C. § 103 as being unpatentable over the Cook patent in view of U.S. Patent No. 5,102,122, issued to Piane, Jr. *et al.* (the Piane patent). The Applicant respectfully submits that the above claims now overcome this rejection because the Cook and Piane patents fail to teach or suggest every element of the above claims as amended.

First, as discussed during the Examiner interview, the Applicant respectfully submits that Claim 65, as currently amended, is patentably distinguished over the Cook patent and the Piane patent because it recites that the engagement assembly includes “at least one pneumatic resistance device that is configured to oppose movement of the operator engagement portion in diametrically opposite directions.” Therefore, Applicant respectfully requests allowance of Claims 65 and 66.

Claims 51, 52, 70 and 71, which depend from Claims 47 and 67, are believed to be patentable for the same reasons articulated above with respect to Claims 47 and 67, and because of the additional features recited therein.

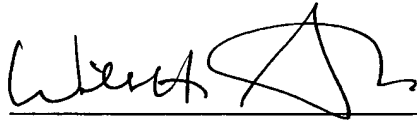
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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